

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 95-0495 CS
Controlled Substance Excise Tax
For The Tax Period: 1995**

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ISSUE

Controlled Substance Excise Tax - Possession

Authority: IC 6-7-3-5

The taxpayer protests assessment of controlled substance excise tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana on March 17, 1995. The Department issued the taxpayer a Controlled Substance Excise Tax (CSET) assessment on July 26, 1995. Taxpayer filed a protest of the CSET assessment via counsel on August 9, 1995. Taxpayer's listed counsel was contacted to schedule a hearing. The Department never received a response from counsel. Subsequent attempts to contact the taxpayer were made. A hearing was scheduled for taxpayer to address his protest. Taxpayer failed to appear. A second hearing was scheduled for which taxpayer again failed to appear. Using the best information available, efforts were made to contact taxpayer and taxpayer failed to respond. This determination is made based on the original protest filed with the Department.

DISCUSSION

Indiana Code 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer must prove by a preponderance of the evidence that he neither possessed, nor delivered, nor manufactured the marijuana upon which controlled substance excise tax was imposed. Without evidence to rebut the presumption that he is liable for the tax, based on the information in the file, the Department finds that taxpayer is responsible for the CSET assessment.

FINDING

The taxpayer's protest is denied.